THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.2368 of 2007

Between:

N.Ashanna Goud.

.. PETITIONER

and

Government of Andhra Pradesh.
Revenue (Ex.II) Department.

.. RESPONDENT

ORDER:

It is the case of the petitioner that he is a resident of Pothireddypalli

village, Sanga Reddy Mandal, Medak District, and engaged in the Toddy tapping for the last several years. Though, he was a Tapper, he was denied membership in the said Pothireddypally village, Medak District. Therefore, he filed representation on 28-04-2005 requesting to grant T.F.T. licence. As no action was taken, he filed W.P.No.16841 of 2005, which was disposed of by order, dated 23-01-2006, directing the Prohibition and Excise Superintendent, Medak District, to consider the representation of the petitioner, dated 28-04-2005, for grant of T.F.T. licence, keeping in view the clarification sought by the respondent herein in Memo, dated 18-07-2005, and to pass appropriate orders in accordance with the Excise (Toddy) policy issued in G.O.Ms.No.767, dated 29-09-2004, as expeditiously as possible preferably, within a period of three weeks from the date of receipt of a copy of the order.

It is stated that pursuant to the said order, the Prohibition and Excise Superintendent, Medak, submitted a report stating that as per the excise (Toddy) policy, there shall be one society for one village and one shop for one society and, therefore, T.F.T. licence cannot be granted, as already a licence has been granted in favour of T.C.S.

It is stated that pursuant to the said report, the Commissioner of Prohibition and Excise, Hyderabad, vide his letter, dated 14-11-2006, did not recommend the case of the petitioner and accordingly the Government vide its impugned Memo No.19758/Ex.II.I/05-6, dated 02-12-2006, informed the Commissioner of Prohibition and Excise, Hyderabad, that the request of the petitioner for grant of tappers licence under T.F.T. scheme is not feasible of compliance. Hence, the request of the petitioner has been rejected.

Aggrieved by the said order, this writ petition has been filed contending that there is no specific prohibition in the excise policy for grant

of T.F.T. licence where the T.C.S. scheme is existing and the policy discloses that as far as possible there shall be only one society for one village and one shop for one Society. Splitting and bifurcation of existing Toddy Tappers Cooperative Society groups are permitted whenever warranted as per rules. It is stated that while sanctioning the establishment of a new shop, preference shall be given to T.F.T. A minimum distance of two kilometres to an already existing shop shall be observed while establishing a new toddy shop.

The learned counsel appearing for the respondent submits that as per clauses 8 and 9 of the excise policy, as enunciated in G.O.Ms.No,767, dated 29-09-2004, there is a specific prohibition to grant a licence within two kilometres from the existing shop and, therefore, as there is already a T.C.S. is functioning, a T.F.T. licence cannot be granted within two kilometres of the existing T.C.S.

On the other hand, the learned counsel appearing for the petitioner submits that the Commissioner of Prohibition and Excise, Hdyerabad, granted a T.F.T. licence, where the T.C.S. was already existing, through proceedings in Cr.No.5963/CPE/2000/E2, dated 26-04-2001, and the said order has been confirmed by the Government in Memo No.23894/Ex.II(1)/03-2, dated 08-06-2005, and therefore there cannot be any objection for grant of T.F.T. licence, where T.C.S. was already existing.

I am not inclined to express any opinion as to whether the said Memo equally applies to the case of the petitioner. As admittedly, in the said case, a new shop under T.F.T. scheme was granted during the excise year 2001-02, which was only confirmed in the year 2005. However, whether there is a specific prohibition in the excise policy for 2004-05 onwards is required to be considered and decided by the Government.

Further, the impugned order does not disclose whether there is any prohibition for grant of T.F.T. in respect of the same village where T.C.S. licence has already been granted, as the Government passed the impugned order without assigning any reasons.

In view of the above facts and circumstances of the case, it is just and proper to set aside the impugned order and remand the matter to the Government to pass appropriate orders, after giving reasonable opportunity to all the concerned, in accordance with law, as expeditiously as possible. There shall be no order as to costs.

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09-02-2007

Prv